

## Message Text

LIMITED OFFICIAL USE

PAGE 01 MBABAN 00570 092103Z

70

ACTION AF-06

INFO OCT-01 ARA-06 IO-11 ISO-00 CIAE-00 DODE-00 PM-04 H-02

INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15

USIA-06 AID-05 MC-02 EB-07 NRC-05 TRSE-00 ERDA-05

COME-00 ACDA-07 DHA-02 SCCT-01 /104 W

----- 003949

R 091423Z APR 76

FM AMEMBASSY MBABANE

TO SECSTATE WASHDC 9423

INFO AMEMBASSY BRASILIA

AMCONSUL CAPE TOWN

AMEMBASSY GABORONE

AMCONSUL JOHANNESBURG

AMEMBASSY MASERU

AMEMBASSY PRETORIA

USMISSION USUN NEW YORK

LIMITED OFFICIAL USE MBABANE 0570

CAPE TOWN FOR EMBASSY

E.O. 11652: N/A

TAGS: ESTC, UN, SF, WZ

SUBJECT: CHIEF JUSTICE OF SWAZILAND UPHOLDS GOS CONFISCATION OF ARMS  
INTENDED FOR SOUTH AFRICA

BEGIN UNCLASSIFIED

1. ON APRIL 5, CHIEF JUSTICE OF SWAZILAND C.J. M. NATHAN (A SOUTH AFRICAN NATIONAL) DISMISSED WITH COSTS THE APPLICATION BY PHOTO AGENCIES (PTY) LTD., A SOUTH AFRICAN COMPANY, FOR THE RETURN OF 32 CASES OF SHOT GUNS SEIZED BY THE SWAZILAND POLICE LAST YEAR.

2. THE CASE AROSE WHEN PHOTO AGENCIES ORDERED THE GUNS FROM AMADEO ROSSI, A BRAZILIAN FIRM. IN ORDER TO CIRCUMVENT THE UN ARMS

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 MBABAN 00570 092103Z

EMBARGO ON SOUTH AFRICA, THE ARMS WERE ADDRESSED TO PHOTO AGENCIES,

SWAZILAND, VIA JAN SMUTS AIRPORT, JOHANNESBURG, WITH THE INTENTION THAT THEY WOULD BE PICKED UP BY THE SOUTH AFRICAN FIRM IN JOHANNESBURG

BEFORE REACHING SWAZILAND. IN THIS CASE, HOWEVER, THE SYSTEM BROKE DOWN AND THE ARMS SHIPMENT ACTUALLY REACHED SWAZILAND WHERE IT WAS CONFISCATED BY THE ROYAL SWAZILAND POLICE. PHOTO AGENCIES SUED TO RECOVER THE ARMS ON THE GROUNDS THAT IT WAS NOT THEIR INTENTION THAT THE ARMS SHOULD REACH SWAZILAND.

3. THE CHIEF JUSTICE DISMISSED THEIR APPLICATION ON THE GROUNDS THAT THE IMPORTATION OF THE ARMS VIOLATED THREE SWAZI LAWS, THAT THE APPLICANT DID NOT APPROACH THE COURT WITH "CLEAN HANDS," AND THAT THE APPLICANT'S ACTIONS ALSO VIOLATED THE UN SECURITY COUNCIL RESOLUTION OF 7 AUGUST 1963 CALLING ON ALL STATES TO CEASE FORTHWITH THE SALE OF ARMS TO SOUTH AFRICA. REFERRING TO THE ADVISORY OPINION OF THE ICJ ON THE NAMIBIA CASE ON 21 JUNE 1971, THE CHIEF JUSTICE SAID, "IN MY OPINION IT FOLLOWS AS A COROLLARY THAT MEMBER STATES OF THE UNITED NATIONS ARE AT THE LEAST UNDER A MORAL OBLIGATION NOT TO DO, OR BE A PARTY TO THE DOING OF, ANY ACT WHICH WOULD DEFEAT THE PURPOSE OF OR RENDER NUGATORY A RESOLUTION OF THE SECURITY COUNCIL. IN SO FAR AS THE SWAZILAND GOVERNMENT WAS MOTIVATED BY THESE CONSIDERATIONS IN ITS ACTION AND ATTITUDE IN THE PRESENT CASE, IT APPEARS TO ME THAT IT ACTED WITH EXTREME PROPRIETY AND IN ACCORDANCE WITH ITS DUTY AS A MEMBER STATE OF THE UNITED NATIONS."

4. COPY OF THE CHIEF JUSTICE'S JUDGEMENT BEING POUCHED DEPT., ATTN ROBERT PERRY AF/S. END UNCLASSIFIED.

BEGIN LIMITED OFFICIAL USE

5. COMMENT: THIS IS THE THIRD TIME IN LESS THAN A YEAR THAT THE ROYAL SWAZILAND POLICE HAVE SEIZED ARMS CONSIGNED TO DEALERS IN SOUTH AFRICA. INCREASED POLICE AND CUSTOMS VIGILANCE IS EXPLAINED BY GOS FEAR OF BECOMING A CONDUIT FOR ILLICIT ARMS TO SOUTH AFRICAN GROUPS THAT ARE RUMORED TO BE HAVING DIFFICULTIES IN PURCHASING SMALL ARMS DIRECTLY. FOR THE FIRST TIME, THE ACTIVITIES OF THE POLICE WERE QUESTIONED AND BY ITS RESPONSE SWAZILAND DECLARED ITS INTENTION TO ABIDE BY THE SPIRIT AS WELL AS THE LETTER OF THE EMBARGO. END LIMITED OFFICIAL USE.  
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 MBABAN 00570 092103Z

BOLEN

LIMITED OFFICIAL USE

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** SMALL ARMS, CUSTOMS SEIZURES, POLICE FORCES  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 09 APR 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** GolinoFR  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1976MBABAN00570  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Film Number:** D760135-0658  
**From:** MBABANE  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1976/newtext/t19760479/aaaacotv.tel  
**Line Count:** 108  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ACTION AF  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 2  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** n/a  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** GolinoFR  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 14 MAY 2004  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <14 MAY 2004 by ShawDG>; APPROVED <17 MAY 2004 by GolinoFR>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
04 MAY 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** CHIEF JUSTICE OF SWAZILAND UPHOLDS GOS CONFISCATION OF ARMS INTENDED FOR SOUTH AFRICA  
**TAGS:** ESTC, SF, WZ, UN  
**To:** STATE  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006